

FILED

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 HAWTHORNE STREET  
SAN FRANCISCO, CALIFORNIA 94105

2010 OCT 18 PM 3:00  
REGIONAL HEARING CLERK

IN RE: )  
 )  
 ) DOCKET NO. EPCRA-9-2010-0031  
JIPANGU INTERNATIONAL, INC., )  
 ) FIRST AMENDED COMPLAINT  
 ) AND NOTICE OF OPPORTUNITY  
 ) FOR HEARING  
RESPONDENT )  
 )  
\_\_\_\_\_ )

AUTHORITY AND PARTIES

1. This is a civil administrative action brought pursuant to Section 325(c) of the Emergency Planning and Community Right-To-Know Act ("EPCRA"), 42 U.S.C. § 11045(c), for assessment of a civil administrative penalty against Jipangu International, Inc. Complainant is the Director of the Communities and Ecosystems Division, EPA, Region IX, who has been duly delegated the authority to bring this action.
2. Respondent is Jipangu International, Inc. of Imlay, Nevada ("Respondent").
3. Complainant will allege that Respondent violated Section 313 of EPCRA by failing to timely report its manufacturing of cobalt compounds for calendar years 2005 through 2007 and manufacturing of copper compounds for calendar years 2005 and 2007. Complainant will also allege that Respondent violated Section 313 of EPCRA by failing to accurately report its otherwise use of cyanide compounds for calendar years 2005 through 2007; its processing of lead compounds for calendar years 2005 and 2006; its manufacturing of mercury compounds for calendar years 2005 through 2007; and its manufacturing of nitrate

compounds for calendar years 2005 through 2007.

#### STATUTORY AND REGULATORY BACKGROUND

4. Pursuant to Sections 313 and 328 of EPCRA, 42 U.S.C. §§ 11023 and 11048, EPA promulgated regulations on February 16, 1988 (53 Fed. Reg. 4525), setting forth requirements for the submission of information relating to the release of toxic chemicals under section 313. These regulations, as amended, are presently codified at 40 C.F.R. Part 372.
5. Section 313(a) and (b) of EPCRA, 42 U.S.C. § 11023(a) and (b), and 40 C.F.R. §§ 372.22 and 372.30, provides that the owner or operator of a facility that (i) has ten or more full-time employees, (ii) is in Standard Industrial Classification Codes 20 through 39, and (iii) manufactured, processed, or otherwise used one or more toxic chemicals listed under Section 313(f) of EPCRA and 40 C.F.R. §§ 372.28 and 372.65, must submit to EPA and the State in which the facility is located a chemical release form published under Section 313(g) of EPCRA for each such toxic chemical.
6. Pursuant to Section 313(g) of EPCRA, 42 U.S.C. § 11023(g), EPA published a uniform Toxic Chemical Release Inventory Form (hereinafter referred to as a “Form R”) for facilities that are subject to the reporting requirements of Section 313. Section 313(a) and (b) of EPCRA, 42 U.S.C. § 11023(a) and (b), and 40 C.F.R. § 372.30(d), provide that a complete and accurate Form R for activities involving a toxic chemical that occurred during a calendar year must be submitted on or before July 1 of the next year.

#### GENERAL ALLEGATIONS

7. Respondent is a Delaware corporation and a “person” as that term is defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

8. At all times relevant to this matter, Respondent operated, and continues to operate, a “facility,” as that term is defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), located near Imlay, Nevada (hereinafter referred to as the “Facility”).
9. At all times relevant to this matter, the Facility had 10 or more “full-time employees,” as that term is defined at 40 C.F.R. § 372.3.
10. At all times relevant to this matter, the Facility was in Standard Industrial Classification Codes 20 through 39.

### VIOLATIONS

#### COUNT I: Failure to Submit Timely Form R for Cobalt Compounds for 2005

11. Paragraphs 1 through 10 are realleged and incorporated by reference herein.
12. During the calendar year 2005, Respondent “manufactured” over 25,000 pounds of cobalt compounds (N096), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
13. Cobalt compounds (N096) is a toxic chemical listed under 40 C.F.R. § 372.65.
14. The threshold for reporting cobalt compounds “manufactured” at the Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
15. Respondent was required to submit a complete and accurate Form R for cobalt compounds to EPA and the State of Nevada for calendar year 2005 on or before July 1, 2006.
16. Respondent failed to submit a Form R for cobalt compounds for calendar year 2005 to EPA and the State of Nevada on or before July 1, 2006.
17. Respondent’s failure to submit a Form R for cobalt compounds for calendar year 2005 to EPA and the State of Nevada on or before July 1, 2006 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT II: Failure to Submit Timely Form R for Copper Compounds for 2005

18. Paragraphs 1 through 10 are realleged and incorporated by reference herein.
19. During the calendar year 2005, Respondent “manufactured” over 25,000 pounds of copper compounds (N100), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
20. Copper compounds (N100) is a toxic chemical listed under 40 C.F.R. § 372.65.
21. The threshold for reporting copper compounds “manufactured” at the Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
22. Respondent was required to submit a complete and accurate Form R for copper compounds to EPA and the State of Nevada for calendar year 2005 on or before July 1, 2006.
23. Respondent failed to submit a Form R for copper compounds for calendar year 2005 to EPA and the State of Nevada on or before July 1, 2006.
24. Respondent’s failure to submit a Form R for copper compounds for calendar year 2005 to EPA and the State of Nevada on or before July 1, 2006 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT III: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2005

25. Paragraphs 1 through 10 are realleged and incorporated by reference herein.
26. During the calendar year 2005, Respondent “otherwise used” over 10,000 pounds of cyanide compounds (N106), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
27. Cyanide compounds (N106) is a toxic chemical listed under 40 C.F.R. § 376.65.
28. The threshold for reporting cyanide compounds “otherwise used” at the Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R.

§ 372.25.

29. Respondent was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2005 on or before July 1, 2006.
30. Respondent failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2005 to EPA and the State of Nevada on or before July 1, 2006.
31. Respondent's failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2005 to EPA and the State of Nevada on or before July 1, 2006 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT IV: Failure to Submit Timely, Complete and Accurate Form R for Lead Compounds for 2005

32. Paragraphs 1 through 10 are realleged and incorporated herein by reference.
33. During the calendar year 2005, Respondent "processed" over 100 pounds of lead compounds (N420), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
34. Lead compounds (N420) is a toxic chemical listed under 40 C.F.R. § 372.28.
35. The threshold for reporting lead compounds "processed" at the Facility is 100 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
36. Respondent was required to submit a complete and accurate Form R for lead compounds to EPA and the State of Nevada for calendar year 2005 on or before July 1, 2006.
37. Respondent failed to submit a complete and accurate Form R for lead compounds for calendar year 2005 to EPA and the State of Nevada on or before July 1, 2006.
38. Respondent's failure to submit a complete and accurate Form R for lead compounds for calendar year 2005 to EPA and the State of Nevada on or before July 1, 2006 constitutes a

violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT V: Failure to Submit Timely, Complete and Accurate Form R for Mercury Compounds for 2005

39. Paragraphs 1 through 10 are realleged and incorporated by reference herein.
40. During the calendar year 2005, Respondent “manufactured” over 10 pounds of mercury compounds (N458), as that term is defined in 40 C.F.R. § 372.3, at the Facility.
41. Mercury compounds (N458) is a toxic chemical listed under 40 C.F.R. § 376.28.
42. The threshold for reporting mercury compounds “manufactured” at the Facility is 10 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
43. Respondent was required to submit a complete and accurate Form R for mercury compounds to EPA and the State of Nevada for calendar year 2005 on or before July 1, 2006.
44. Respondent failed to submit a complete and accurate Form R for mercury compounds for calendar year 2005 to EPA and the State of Nevada on or before July 1, 2006.
45. Respondent’s failure to submit a complete and accurate Form R for mercury compounds for calendar year 2005 to EPA and the State of Nevada on or before July 1, 2006 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT VI: Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2005

46. Paragraphs 1 through 10 are realleged and incorporated by reference herein.
47. During the calendar year 2005, Respondent “manufactured” over 25,000 pounds of nitrate compounds (N511), as that term is defined in 40 C.F.R. § 372.3, at the Facility.

48. Nitrate compounds (N511) is a toxic chemical listed under 40 C.F.R. § 372.65.
49. The threshold for reporting nitrate compounds “manufactured” at the Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
50. Respondent was required to submit a complete and accurate Form R for nitrate compounds to EPA and the State of Nevada for calendar year 2005 on or before July 1, 2006.
51. Respondent failed to submit a complete and accurate Form R for nitrate compounds for calendar year 2005 to EPA and the State of Nevada on or before July 1, 2006.
52. Respondent’s failure to submit a complete and accurate Form R for nitrate compounds for calendar year 2005 to EPA and the State of Nevada on or before July 1, 2006 constitute a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT VII: Failure to Submit Timely Form R for Cobalt Compounds for 2006

53. Paragraphs 1 through 10 are realleged and incorporated by reference herein.
54. During the calendar year 2006, Respondent “manufactured” over 25,000 pounds of cobalt compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
55. Cobalt compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
56. The threshold for reporting cobalt compounds “manufactured” at the Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
57. Respondent was required to submit a complete and accurate Form R for cobalt compounds to EPA and the State of Nevada for calendar year 2006 on or before July 1, 2007.
58. Respondent failed to submit a Form R for cobalt compounds for calendar year 2006 to EPA

and the State of Nevada on or before July 1, 2007.

59. Respondent's failure to submit a Form R for cobalt compounds for calendar year 2006 to EPA and the State of Nevada on or before July 1, 2007 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT VIII: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2006

60. Paragraphs 1 through 10 are realleged and incorporated by reference herein.
61. During the calendar year 2006, Respondent "otherwise used" over 10,000 pounds of cyanide compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
62. Cyanide compounds is a toxic chemical listed under 40 C.F.R. § 376.65.
63. The threshold for reporting cyanide compounds "otherwise used" at the Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
64. Respondent was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2006 on or before July 1, 2007.
65. Respondent failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2006 to EPA and the State of Nevada on or before July 1, 2007.
66. Respondent's failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2006 to EPA and the State of Nevada on or before July 1, 2007 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.



COUNT IX: Failure to Submit Timely, Complete and Accurate Form R for Lead Compounds for 2006

- 67. Paragraphs 1 through 10 are realleged and incorporated by reference herein.
- 68. During the calendar year 2006, Respondent “processed” over 100 pounds of lead compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
- 69. Lead compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
- 70. The threshold for reporting lead compounds “processed” at the Facility is 100 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
- 71. Respondent was required to submit a complete and accurate Form R for lead compounds to EPA and the State of Nevada for calendar year 2006 on or before July 1, 2007.
- 72. Respondent failed to submit a complete and accurate Form R for lead compounds for calendar year 2006 to EPA and the State of Nevada on or before July 1, 2007.
- 73. Respondent’s failure to submit a complete and accurate Form R for lead compounds for calendar year 2006 to EPA and the State of Nevada on or before July 1, 2007 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT X: Failure to Submit Timely, Complete and Accurate Form R for Mercury Compounds for 2006

- 74. Paragraphs 1 through 10 are realleged and incorporated by reference herein.
- 75. During the calendar year 2005, Respondent “manufactured” over 10 pounds of mercury compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
- 76. Mercury compounds is a toxic chemical listed under 40 C.F.R. § 376.28.
- 77. The threshold for reporting mercury compounds “manufactured” at the Facility is 10 pounds,

as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.

- 78. Respondent was required to submit a complete and accurate Form R for mercury compounds to EPA and the State of Nevada for calendar year 2006 on or before July 1, 2007.
- 79. Respondent failed to submit a complete and accurate Form R for mercury compounds for calendar year 2006 to EPA and the State of Nevada on or before July 1, 2007.
- 80. Respondent's failure to submit a complete and accurate Form R for mercury compounds for calendar year 2006 to EPA and the State of Nevada on or before July 1, 2007 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT XI: Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2006

- 81. Paragraphs 1 through 10 are realleged and incorporated by reference herein.
- 82. During the calendar year 2006, Respondent "manufactured" over 25,000 pounds of nitrate compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
- 83. Nitrate compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
- 84. The threshold for reporting nitrate compounds "manufactured" at the Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
- 85. Respondent was required to submit a complete and accurate Form R for nitrate compounds to EPA and the State of Nevada for calendar year 2006 on or before July 1, 2007.
- 86. Respondent failed to submit a complete and accurate Form R for nitrate compounds for calendar year 2006 to EPA and the State of Nevada on or before July 1, 2007.

87. Respondent's failure to submit a complete and accurate Form R for nitrate compounds for calendar year 2006 to EPA and the State of Nevada on or before July 1, 2007 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT XII: Failure to Submit Timely Form R for Cobalt Compounds for 2007

88. Paragraphs 1 through 10 are realleged and incorporated by reference herein.
89. During the calendar year 2007, Respondent "manufactured" over 25,000 pounds of cobalt compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
90. Cobalt compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
91. The threshold for reporting cobalt compounds "manufactured" at the Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
92. Respondent was required to submit a complete and accurate Form R for cobalt compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
93. Respondent failed to submit a Form R for cobalt compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
94. Respondent's failure to submit a Form R for cobalt compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT XIII: Failure to Submit Timely Form R for Copper Compounds for 2007

95. Paragraphs 1 through 10 are realleged and incorporated by reference herein.
96. During the calendar year 2007, Respondent "manufactured" over 25,000 pounds of copper compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.

97. Copper compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
98. The threshold for reporting copper compounds “manufactured” at the Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
99. Respondent was required to submit a complete and accurate Form R for copper compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
100. Respondent failed to submit a Form R for copper compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
101. Respondent’s failure to submit a Form R for copper compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT XIV: Failure to Submit Timely, Complete and Accurate Form R for Cyanide Compounds for 2007

102. Paragraphs 1 through 10 are realleged and incorporated by reference herein.
103. During the calendar year 2007, Respondent “otherwise used” over 10,000 pounds of cyanide compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
104. Cyanide compounds is a toxic chemical listed under 40 C.F.R. § 376.65.
105. The threshold for reporting cyanide compounds “otherwise used” at the Facility is 10,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
106. Respondent was required to submit a complete and accurate Form R for cyanide compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.

107. Respondent failed to submit a complete and accurate Form R for cyanide compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
108. Respondent's failure to submit a complete and accurate Form R for cyanide compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT XV: Failure to Submit Timely, Complete and Accurate Form R for Mercury Compounds for 2007

109. Paragraphs 1 through 10 are realleged and incorporated by reference herein.
110. During the calendar year 2007, Respondent "manufactured" over 10 pounds of mercury compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
111. Mercury compounds is a toxic chemical listed under 40 C.F.R. § 376.28.
112. The threshold for reporting mercury compounds "manufactured" at the Facility is 10 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.28.
113. Respondent was required to submit a complete and accurate Form R for mercury compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
114. Respondent failed to submit a complete and accurate Form R for mercury compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
115. Respondent's failure to submit a complete and accurate Form R for mercury compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

COUNT XVI: Failure to Submit Timely, Complete and Accurate Form R for Nitrate Compounds for 2007

116. Paragraphs 1 through 10 are realleged and incorporated by reference herein.
117. During the calendar year 2007, Respondent “manufactured” over 25,000 pounds of nitrate compounds, as that term is defined in 40 C.F.R. § 372.3, at the Facility.
118. Nitrate compounds is a toxic chemical listed under 40 C.F.R. § 372.65.
119. The threshold for reporting nitrate compounds “manufactured” at the Facility is 25,000 pounds, as established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. § 372.25.
120. Respondent was required to submit a complete and accurate Form R for nitrate compounds to EPA and the State of Nevada for calendar year 2007 on or before July 1, 2008.
121. Respondent failed to submit a complete and accurate Form R for nitrate compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008.
122. Respondent’s failure to submit a complete and accurate Form R for nitrate compounds for calendar year 2007 to EPA and the State of Nevada on or before July 1, 2008 constitutes a violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

PROPOSED CIVIL PENALTY

Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and the Civil Monetary Penalty Inflation Adjustment Rule (61 Fed. Reg. 69359 (December 31, 1996); 62 Fed. Reg. 13514 (March 20, 1997); and 69 Fed. Reg. 7121 (February 13, 2004)), authorize EPA to assess a civil penalty of up to \$32,500 for each violation of Section 313. Based upon the nature, circumstances, extent and gravity of the

violations alleged, and with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require, as set forth in the Enforcement Response Policy for Section 313 of EPCRA (“ERP”), dated August 10, 1992, and the Interim Data Quality Amendment to the EPCRA Section 313 Enforcement Response Policy, dated April 12, 2001, Complainant requests that the Administrator assess against Respondent a civil administrative penalty of up to \$32,500 for each violation of the Act, as set forth above.

#### OPPORTUNITY TO REQUEST A HEARING

The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22, govern these proceedings.

Under these rules, you have the right to request a hearing. Any request for a hearing must be in writing and must be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California within thirty (30) days of receipt of this First Amended Complaint. In the event that you intend to request a hearing to contest any material facts set forth in the First Amended Complaint, to dispute the amount of the penalty proposed in the First Amended Complaint, or to assert a claim for judgment as a matter of law, you must file a written Answer to this First Amended Complaint with the Regional Hearing Clerk at the above address within thirty (30) days of receipt of this First Amended Complaint. A copy of your Answer should also be sent to:

David H. Kim  
Assistant Regional Counsel (ORC-3)  
U.S. Environmental Protection Agency, Region 9

75 Hawthorne Street  
San Francisco, CA 94105

Your Answer should clearly and directly admit, deny, or explain each factual allegation contained in this First Amended Complaint with regard to which you have any knowledge. The Answer should state: (1) the circumstances or arguments which are alleged to constitute the grounds of defense; (2) a concise statement of the facts which you intend to place at issue in the hearing; and (3) whether a hearing is requested. Hearings held in the assessment of the civil penalties will be conducted in accordance with the provisions of the Administrative Procedures Act, 5 U.S.C. §§ 551 et seq., and the Consolidated Rules of Practice. See 40 C.F.R. Part 22.

If you fail to file an Answer to this First Amended Complaint with the Regional Hearing Clerk within thirty (30) days of receipt, such failure shall constitute an admission of all facts alleged in the First Amended Complaint and a waiver of your right to a hearing. The proposed penalty shall become due and payable by you without further proceedings sixty (60) days after a final order issued upon default.

#### SETTLEMENT CONFERENCE

EPA encourages all parties against whom civil penalties are proposed to pursue the possibilities of settlement through informal conferences. Therefore, whether or not you request a hearing, you may confer informally with the Agency concerning the alleged violation or the amount of the proposed penalty. You may wish to appear at the conference yourself or be represented by counsel. If a settlement is reached, it shall be finalized by the issuance of a written Consent Agreement and Final Order by the Regional Judicial Officer, EPA, Region IX. The issuance of such Consent Agreement and Final Order shall constitute a waiver of your right to request a hearing of any matter stipulated to therein.

To explore the possibility of settlement in this matter, address your correspondence to:



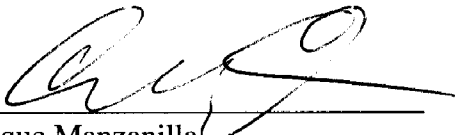
David H. Kim  
Assistant Regional Counsel (ORC-3)  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

His telephone number is (415) 972-3882.

Instead of requesting an informal settlement conference or filing an Answer requesting a hearing, you may choose to pay the proposed penalty. In order to do this, please contact Mr. Kim to arrange for the preparation of a Consent Agreement and Final Order.

After this First Amended Complaint is issued, the Consolidated Rules of Practice prohibit ex parte (unilateral) discussion of the merits of any action with the EPA Regional Administrator, Chief Judicial Officer, Administrative Law Judge, or any person likely to advise these officials in the decision of this case.

Dated at San Francisco, California on this 18 day of October, 2010.

  
\_\_\_\_\_  
Enrique Manzanilla  
Director, Communities and Ecosystems Division  
USEPA, Region 9

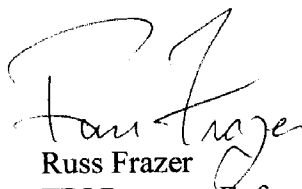
**CERTIFICATE OF SERVICE**

I certify that the original and foregoing Complaint and Notice of Opportunity for Hearing, Docket Number EPCRA-09-2010-0031, was filed on October 18, 2010, with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, and that a true and correct copy of the Amended Complaint was placed in the United States Mail, certified mail, return receipt requested, addressed to the following:

Don Deems  
Environmental Manager  
Jipangu International, Inc.  
P.O. Box 330  
Imlay, Nevada 89418  
Certified Return Receipt Article No: 7003 3110 0006 1998 2790

Sara J. Peterson, Esq.  
Dorsey & Whitney, LLP  
50 South Sixth Street  
Minneapolis, MN 55402  
Certified Return Receipt Article No: 7003 3110 0006 1998 2806

Dated: 10/18/10



Russ Frazer  
TRI Program Enforcement Officer, Toxics Office  
Communities and Ecosystems Division  
United States Environmental Protection Agency  
Region IX